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May 25, 2025

The Honorable David T. Schultz
Magistrate Judge, District of Minnesota
United States District Court
9E U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Re: *In re Bair Hugger*, MDL No. 15-2666-JNE-DTS –Text Order (ECF No. 2814)

Honorable Judge Schultz:

Pursuant to your May 14, 2025 Text Order (ECF No. 2814) requesting a joint letter describing recurring disputes and attaching a demonstrative Plaintiff Fact Sheet, Plaintiffs submit this letter along with the attached redacted Plaintiff Fact Sheets (“PFS”) as examples of the recurring issues.¹

Plaintiffs’ position

Defendants reference to an isolated PFS is not an exemplar of the thousands of PFS submitted by Plaintiffs and fails to inform the Court that the deficiency letter in that case was sent over five months after the deficiency letter was due. Defendants have not complied with PTO 14 and have waived any objections to the adequacy of that particular PFS. PTO is very clear, “[w]ithin four (4) weeks of receipt of a PFS, Defendants **shall** notify the individual Plaintiff’s counsel of any core deficiencies...”. This is a recurring issue in which hundreds of deficiency letters have been untimely sent and therefore any objections to those PFS have been waived. The requirements and deadlines in PTO 14 should be construed similarly to PTO 23. Both orders include the term “shall” and therefore “shall” should as a matter of equity be construed strictly against 3M as it is against the Plaintiffs. In fact, 3M should be held to a higher standard in which the PFS is sent to Norton Rose which has numerous attorneys which can respond as compared to a dead person being required to notify their attorney that they are dead.

Plaintiffs do not suggest that all submitted PFSs are without any deficiencies, and that none need to be corrected. However, the purpose and efficiencies of the PTO 14 process have been forgotten

¹ Defendants provided a draft of their position on Friday May 23, 2025. Plaintiff was in the process of finalizing their position when Defendants filed their position with the Court at 1:40 PM today without any notice.

by the Defendants. Defendants have repeatedly submitted deficiencies in which there is no deficiency. Attached are three recent deficiency notices received by the Defendants and the corresponding PFS submitted by Plaintiffs. This is just an example of the thousands of deficiency letters sent by Defendants in which Plaintiffs have made a “serious, good faith effort” and have complied with PTO 14. As mentioned during a previous hearing, Defendants have provided no substantive description of deficiencies in their deficiency letters and Plaintiffs are left guessing as to what Defendants allege are deficient, especially when on their face, there are no core deficiencies. Defendants have “cried wolf” too many times in which now their deficiency letters have no meaning and are just expected to be received by the Plaintiffs.

Plaintiffs request this Court to reign in Defendants so that the PTO 14 process is efficient and meaningful. The Defendants waste of the Court’s and Plaintiffs’ time and resources must end. The initial purpose of PTO 14 is as a process to obtain case information for purposes of Bellwether selection and settlement, not a technical sword to dismiss legitimate cases because of a blank line, data in a different section, etc. The Bellwether process has passed and therefore the only purpose is to obtain information for settlement. The MDL is in a different posture now as compared to when PTO 14 was initially entered and such should be considered by the Court in determining the future course of action by the parties and the purpose of PTO 14.

Sincerely,

/s/ Gabriel Assaad

Gabriel Assaad
Michael V. Ciresi
Genevieve Zimmerman
Ben W. Gordon
Co-lead Counsel for Plaintiffs

SAMPLE PFS



May 8, 2025

Via Email and U.S. Mail

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Re: *In re Bair Hugger Forced Air Warming Devices Products Liability Litigation*
MDL No. 26666 – Deficiencies in Plaintiff Fact Sheet
Connelly, Michael J. v 3M Company et al Case No.:0:25-cv-00925-JNE-DTS

Dear Counsel:

We are in receipt of the Plaintiff Fact Sheet (PFS) for the above-captioned matter. The PFS has core deficiencies, as set forth in the enclosed report.

Paragraph 4 of Pretrial Order No. 14 (PTO 14), identifies those questions in the PFS which, if not properly responded to, constitute core deficiencies. PTO 14 also defines failure to verify the responses and failure to provide an executed medical authorization as core deficiencies. Additionally, the instructions for the PFS prohibit leaving spaces blank, and provide: “If a question is not applicable to you, please state ‘Not Applicable’ or ‘N/A.’”

Pursuant to Paragraph 6 of PTO 14, within three weeks of this letter, you must respond in writing by either (1) curing the deficiencies (by serving a revised, verified PFS to Norton Rose Fulbright’s dedicated PFS email account, (2) disputing the deficiency and setting forth the reasons the PFS is not deficient, or (3) explaining why the deficiencies cannot be timely cleared. If you serve an amended PFS, be advised that you do not need to resubmit documents that were previously served.

Sincerely,

/s/Simon J. Gottlieb

Simon Gottlieb
cc: Plaintiffs’ Liaison Counsel

Enclosure May 8, 2025

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Core Deficiencies

Sec. III: 1

Sec. VI: 3

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

PLAINTIFF FACT SHEET

This Document Relates To:
All Actions

Plaintiff: 

(Printed Name)

This Plaintiff Fact Sheet must be completed pursuant to the Pretrial Order by each plaintiff or their personal representative. Section IX must be completed by loss of consortium plaintiffs.

In completing this Fact Sheet, you are under oath and must provide information that is true and correct to the best of your knowledge. Please answer every question, and do not leave any blanks throughout this Fact Sheet. If you cannot recall all of the details requested, please provide as much information as you can. If a question is not applicable to you, please state “Not Applicable” or “N/A.” If any information you need to complete this Fact Sheet is in the possession of your attorney or other representative, please consult with that attorney or representative so that you can fully and accurately respond to the questions. If you do not have room in the space provided to complete your answer, please attach as many sheets of paper as necessary to fully answer the questions. You are obligated to supplement your responses if you learn that they are incomplete or incorrect in any material respect. No answer requires any waiver of privilege.

As used herein, the term “communication” and/or “correspondence” shall mean and refer to any oral, written or electronic transmission of information, including, without limitation, meetings, discussions, conversations, telephone calls, memoranda, letters, e-mails, text messages, conferences, or seminars or any other exchange of information.

As used herein, the term “identify” or “identity” with respect to persons, means to give, to the extent known, the person’s full name, their present or last known addresses and phone numbers.

As used herein, the term “person” means natural person, as well as corporate and/or governmental entity.

As used herein, “your attorney” refers to the attorneys that represent you individually in this lawsuit.

As used herein, the terms “Relating to,” “relate to,” “referring to,” “refer to,” “reflecting,” “reflect,” “concerning,” or “concern” shall mean evidencing, regarding, concerning,

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CONNELLY, M-000001

discussing, embodying, describing, summarizing, containing, constituting, showing, mentioning, reflecting, pertaining to, dealing with, relating to, referring to in any way or manner, or in any way logically or factually, connecting with the matter described in that paragraph of these demands, including documents attached to or used in the preparation of or concerning the preparation of the documents.

NOTE TO PEOPLE IN A REPRESENTATIVE CAPACITY

If you are completing this form in a representative capacity, only the information in Section I asks for information about you, individually. Throughout the rest of the Plaintiff Fact Sheet, the questions seek information about the person who you claim was injured, or on whose behalf you bring this lawsuit. Other than in Section I, when a question asks for information about “you” or the “plaintiff,” please provide information about the person you claim was injured or on whose behalf you have brought this lawsuit.

I. CASE INFORMATION

1. Name of person completing this form: _____
2. State the following for the civil action which you filed:
 - a. Current case caption: _____
 - b. Current case number: 0:25-cv-00925
3. State the name, address, telephone and facsimile numbers, and e-mail address of the principal attorney representing you:
 - a. Name: Gabriel Assaad
 - b. Firm: McDonald Worley
 - c. Address: 1770 St. James Pl. Suite 100
 - d. Telephone: 713-523-5500 Fax: 713-523-5501
 - e. E-mail: bairhugger@mcdonaldworley.com
4. If you are completing this questionnaire in a representative capacity (e.g., on behalf of an estate, or incapacitated or deceased person), please state the following information about yourself:
 - a. Name: N/A
 - b. Any other names (e.g., maiden name or alias) you have used or by which you have been known and the dates you used those names: _____
N/A

- c. Your Address: N/A
- d. Individual or estate you are representing, and in what capacity you are representing the individual or estate: N/A
- e. If you were appointed as a representative by a court, state the court: N/A
- f. Date of Appointment: N/A
- g. State your relationship with the represented person claimed to be injured: N/A
- h. If you represent a decedent's estate, state the date and the address of the place of death: N/A

II. PERSONAL INFORMATION (re Person claiming injuries)

1. State the following regarding your personal information:
- a. Full Name: [REDACTED]
- b. Any other names (e.g., maiden name or alias) you have used or by which you have been known and the dates when you used those names: N/A
- c. Social Security Number: [REDACTED]
- d. Address: [REDACTED]
- e. State how long you have lived at your present address: 51 Years
- f. Identify all persons who lived with you at the time of the events alleged in the Complaint, and their relationship to you: Judy Connelly, Wife

2. Driver's license number and state issuing license: C-540-603-367-050; MD
3. Date and place of birth: [REDACTED]; MD
4. Sex: Male: X Female:
5. If you have Medicare, please state your HICN number (if known):
1AK0-GU5-YH33
6. Identify each address at which you have resided during the last ten (10) years, and list the approximate years when you started and stopped living at each one:

Address	Dates of Residence
██████████ ██████████	1974 - Present

7. Are you currently, or have you ever been, married? X Yes No

If “yes,” for each spouse, please state the following:

Name and Address (if different from yours) of Spouse	Spouse's Date of Birth	Date Marriage Began/Ended	How Marriage Ended
Judy Connelly	07/01/1952	06/06/1970 - Present	N/A Separated

8. For each of your children, please state their name and year of birth: _____
Christopher Connelly, 1985; Michelle Connelly, 1978

9. Identify the following information for each school, college, university, vocational school, or other educational institution you have attended beginning with high school:

Name of School	City and State	Dates of attendance	Degree Awarded	Major or Primary Field
Beall High School	Frostburg, MD	1961 - 1966	Diploma	General Studies

10. For your current employer (if you are not currently employed, your last employer) and each employer for the last ten (10) years, state the following to the extent you can recall:

Name and Address of Employer	Approx. Dates of Employment	Occupation/Job Title	Reason for Leaving
CertainTeed 10131 Governor Lane Boulevard, Williamsport, MD 21795	2001 - 10/2006	Machine Operator	Retired

11. Have you ever served in any branch of the military?

Yes ☒ No ☐

Branch(es) and date(s) of service United States Navy Reserves, 1963 - 1968

If yes, were you ever discharged for any reason relating to your medical or physical condition?

Yes ☐ No ☒

If yes, state what that condition was: N/A

12. Have you ever been rejected from military service for any reason relating to your medical or physical condition?

Yes ☐ No ☒

If yes, state what the condition was: N/A

13. Have you been convicted of a felony or a crime involving a dishonest act or false statement in the last ten (10) years?

____ Yes ☒ No

If "yes," state the type and nature of the underlying conduct or event: _____

N/A

Court/State entering conviction: N/A

Date of conviction: N/A

14. Do you recall ever visiting a website, blog, etc., regarding the use of patient warming systems during surgery, or any risks or benefits to patient warming in general or by device type? If so, identify the website, blog, etc., you visited and the location of any copy of the information you reviewed if it still exists:

No.

15. Do you recall ever posting or writing anywhere on the internet in a public forum about Defendants, any patient warming system or device, or the injuries you allege were caused by Defendants' product, including but not limited to, posting on a personal website, blog, Facebook account, Linked In account, or other social media?

____ Yes ☒ No

If "yes," then identify the web address or name and type of social media, and approximate dates during which you made such posts: _____

N/A

16. Do you have any drawings, journals, slides, diaries, notes, letters, or emails which refer to your health or well being relating to your surgery, alleged injury, and your life after your alleged injury?

Yes, I have pictures.

III. SURGERY INFORMATION

To the extent responsive information to the questions below is available in medical records in your possession or in the possession of your attorneys, please produce such records.

1. Do you have information that a Bair Hugger™ Patient Warming System (“Bair Hugger system”) was used during the surgery allegedly connected to the infection at issue?

 X Yes No

If “yes,” please describe that information? I found information that the Bair Hugger was used during my surgery.

When did you first discover this information? 03/13/2025

How did you learn this? From my medical records

Provide the Serial or Model Number of the device used: Unknown

Where is this product now? Unknown

2. Other than based upon information from a consulting expert, do you have information as to whether the operating room (where the surgery at which you claim you were injured was performed) utilized a laminar air flow system at the time of your surgery?

 Yes, it did. No, it did not. X Do not know.

What is the source of your knowledge? N/A

When did you learn this? N/A

Other than based upon information from a consulting expert, identify any documents or records that contain information about the laminar air flow system used in the operating room at the time of your surgery: N/A

3. State the following information related to the surgery or surgeries at which you claim you were injured by a Bair Hugger system (answer separately for each surgery at issue):

Date of surgery: 07/30/2018

Location of surgery (hospital or facility name and full address):

[REDACTED]

Identify the physician performing the surgery: Adam E. Klein, MD

Type of surgery: _____

Reason for surgery: _____

Your height and weight at the time of surgery: 6'2"; 249.1 lbs

List all medical conditions or diagnoses (for example, high blood pressure or diabetes) that you had at the time you went into surgery: _____

High Blood Pressure; Diabetes

Identify any infections you had, if any, during the 6 months before you had surgery: _____
N/A

Identify all persons with whom you had discussions about the risks of surgery, and describe the risks discussed: I had the discussion with my doctor at the time, and it was mentioned to me about the risks of having surgery.

Identify the type of microbe, bacterium, virus, or organism, you allege caused the infection that is the subject of this lawsuit (if known) and the basis for your knowledge if not subject to privilege: Unknown

4. Has anyone, excluding any retained medical or scientific expert or your attorneys, expressed the opinion or otherwise told you that the Bair Hugger system caused the infection or injury that is the basis for this lawsuit?

Yes _____ No X

If yes, identify the person who told you and their relationship to you:

What were you told? N/A

5. Are you aware of any non-privileged tests or inspections that have been conducted of the Bair Hugger system allegedly used at your surgery, or of any other Bair Hugger device?

 Yes X No

If "yes," state the following:

Date(s) of testing: N/A

Model/Serial No. of unit(s): N/A

Name and address of person or entity that conducted testing: N/A

Description of tests conducted: N/A

Results of testing: N/A

IV. GENERAL MEDICAL INFORMATION

1. Identify the following vital statistics:

Current (last) height: 6'2"

Current (last) weight: 220 lbs

2. Identify the name and address of your current (last) family and/or primary care physician:

Robert A. Welik, MD - 919 Seton Dr, Cumberland, MD 21502

3. Identify all healthcare providers with whom you have consulted or treated beginning seven (7) years before the surgery at which you claim you were injured by a Bair Hugger system through the present, and for each provider, state the following information:

Doctor or Healthcare Provider's Name	Specialty	Address	Approx. Dates/Years of Visits	Reasons for Seeing this Provider
Robert A. Welik, MD	Internal Medicine Nephrology	919 Seton Dr, Cumberland, MD 21502	2010 - Present	General Health
Adam Edward Klein, MD	Adult Reconstructive Orthopedic Surgery	1 Medical Center Dr, Morgantown, WV 26506	07/30/2018 - 02/2021 02/2021 - Present	Right Hip Issues
Nicole Bryan, MD	Infectious Disease	1 Medical Center Dr, Morgantown, WV 26506	08/2018 - Present	Right Hip Issues
Renee Schwertfeger, NP	Endocrinology	600 Suncrest Town Centre Dr, Morgantown, WV 26505	2020 - Present	Diabetes

4. For each hospital, clinic, surgery center, healthcare facility, physical therapy or rehabilitation center where you have received medical treatment (in-patient, out-patient, urgent care or emergency room) from the time seven (7) years before the surgery at which you claim you were injured by a Bair Hugger system to the present, state the following information:

Name	Address and Telephone Number	Admission Date(s)	Reason for Admission
██████████	██████████ Dr. ██████████	██████████	██████████

5. List all of the medications (prescription and over the counter) you currently take.

Medication	Dose/ Frequency of Use	Physician Ordering	Purpose
Warfarin	3 mg / Daily	Robert A. Welik, MD	Clot prevention
Doxycycline	100 mg / 2X Daily	Nicole Bryan, MD	Infection prevention
Metoprolol	50 mg / Daily	Robert A. Welik, MD	High Blood Pressure
(See Addendum)			

6. For each prescription medication you have taken at least once a month over the course of four months or more at any time during the last seven (7) years prior to the surgery, other than the ones above, identify the following information:

Name of Prescription Medication	Who Prescribed the Medication	Understanding of Reason for Taking	Dates/years taken
N/A			

7. Identify the following for each pharmacy, drugstore, or other facility or supplier (including, but not limited to, mail order pharmacies) that has dispensed medication to you in the past five (5) years:

Name of Pharmacy	Address and Telephone Number of Pharmacy	Approx. Dates/Years You Used Pharmacy
Walmart Pharmacy	12500 Country Club Mall Rd, La Vale, MD 21502 (301) 729-5088	2014 - Present

8. Identify all dental procedures you had beginning 6 months prior to and continuing through 6 months after the surgery during which you claim you were injured by the Bair Hugger system. For each procedure, provide the following information:

Dentist or Healthcare Provider's Name	Address	Date of Procedure	Type of Procedure
N/A			

9. Have you ever used tobacco in any form from the time five (5) years before the surgery at which you claim you were injured by the Bair Hugger system to present?

____ Yes ☒ No

If "yes," check the answer and state the following:

Type(s) of tobacco used: N/A

Date on which you began using tobacco: N/A

Date on which you ceased using tobacco (if current user, state N/A): N/A

Amount of tobacco used: N/A per day for N/A years.

Other description of tobacco use: N/A

10. For the time period starting one (1) year before the surgery at which you claim you were injured by the Bair Hugger system to the present, have you been treated as an in-patient or out-patient for drug or alcohol abuse or addiction?

____ Yes ☒ No

If "yes," please provide the name of the facility and approximate dates of treatment
N/A

V. INSURANCE AND OTHER CLAIM INFORMATION

1. Identify any person, insurance company (including any Medicare Advantage Organization), or other entity, including Medicare or Medicaid, that provided medical coverage to you (either directly or through a group, including any employer) or paid medical bills on your behalf at any time, beginning five (5) years before your alleged injuries through the present.

Name of Entity	Policy Number	Name of Policy Holder or Insured (if not you)	Approx. Dates of Coverage
WellCare	34166101	Self	01/2024 - Present
Medicare	1AK0-GU5-YH33	Self	2011 - Present

3. Have you ever filed a worker's compensation claim in the last ten (10) years?

____ Yes ☒ No

If "yes," please state:

The approximate year of the claim: N/A

Your employer: N/A

Nature of disability: N/A

4. Have you ever been out of work for more than thirty (30) days in any one or more of the last ten (10) years, for any reasons related to your health excluding maternity leave?

____ Yes ☒ No

If "yes," please state:

The approximate date(s) you were out of work: N/A

The reason(s) you were out of work: N/A

5. Have you ever filed social security disability claims (SSI or SSD) or filed a disability claim with a private insurer?

X Yes No

If "yes," please state:

Approximate year of the claim: 2006

Nature of disability: Seizure, suspected stroke

Was the claim denied? Yes X No

6. Have you ever filed a lawsuit or made a claim, other than the present lawsuit, relating to any bodily injury in the last ten (10) years?

 Yes X No

If "yes," please state:

Approximate date the lawsuit or claim was filed or made: N/A

Court/State where the lawsuit was filed: N/A

Name of the Defendant, if known: N/A

Brief description of the claims asserted: N/A

7. Have you ever filed for bankruptcy subsequent to the date of the surgery in which you claim you were injured by the Bair Hugger system?

 Yes X No

If "yes," state when and in what court, and how the case was resolved.

N/A

VI. CURRENT CLAIM INFORMATION

1. Do you allege that you suffered physical and/or bodily injury related to use of a Bair Hugger system?

X Yes No

If “yes”: describe each bodily injury:

Following my surgery where Bair Hugger was used, I suffered a postoperative infection requiring intervention, management and 3 surgeries. See timeline of care on page 20 and medical records provided for additional information.

State the approximate date on which you first became aware of the injury(ies) (regardless of whether you associated the injury with the use of a Bair Hugger system): _____

08/22/2018

If you are currently experiencing any symptoms related to an alleged injury that you attribute to use of a Bair Hugger system, describe your symptoms and any treatment you are currently receiving: [REDACTED]

Describe any activities that you can no longer perform, or cannot perform as well, since the time you allege you were injured: [REDACTED]

Describe any other physical harm or consequences you suffered as a result: I can't walk
on uneven ground. It affected my driving and walking. I used a walker for over a year
from the surgeries. My muscles in my hip will ache for days if I am exposed to the cold.

2. Do you allege that use of a Bair Hugger system worsened or aggravated a previously existing injury or condition?

Yes X No NOT TO MY KNOWLEDGE

If “yes,” describe the previously existing injury or condition, the approximate date of onset of the previously existing injury or condition, and any treatment for and resolution of the injury or condition:

N/A

3. Do you claim damages related to emotional distress or psychological injuries as a result of use of a Bair Hugger system?

☒ Yes ☐ No

If "yes," describe the emotional distress or psychological injuries and the approximate date of onset: _____

From day one of the surgery in 07/30/2018, my whole life changed. I hunted, fished, everything; all of my hobbies stopped immediately. It affected my social life.

4. If you are claiming damages related to emotional distress, provide the following information for any psychiatrist, psychologist, or any other mental healthcare professional who has ever treated you, or who you are currently seeing, for any alleged emotional distress or psychological injuries described in the previous question:

Doctor or Healthcare Provider's Name	Specialty	Address	Reason for Visit	Approx. Dates/Years of Visits
Robert A. Welik, MD	Internal Medicine Nephrology	919 Seton Dr. Cumberland, MD 21502	Primary Care	2010 - Present

5. Have you read or seen any written, televised, or internet-based advertising or labeling material related to a Bair Hugger system other than in consultation with your attorney?

☐ Yes ☒ No

If "yes," state which written, televised, or internet-based advertising or labeling materials you read or saw and when you reviewed those materials: _____

N/A

6. In connection with the surgery at which you claim you were injured, were you given any oral or written information or warnings concerning the Bair Hugger system?

☐ Yes ☒ No

If "yes," state the following:

When these were given: N/A

A description of the information or warnings: N/A

Identify each person or entity from whom you recall receiving the information or warnings listed above:

N/A

If you recall, list any questions you asked, and the answers they gave, regarding the information or warnings listed above:

N/A

7. Have you or has anyone acting on your behalf (other than your attorney) had any communications with any Arizant or 3M representative regarding your surgery with and/or claim of injuries from use of a Bair Hugger system?

 Yes X No

If "yes," provide the approximate date(s), type (email, phone, letter, etc.), persons involved, if known, and general substance of the communication:

N/A

8. Did any representative of Arizant or 3M ever tell you that you got a warranty related to the Bair Hugger™ Patient Warming System or otherwise represent to you the expected performance of the Bair Hugger system ?

 Yes X No

If "yes," state the following: provide the approximate date(s), type of communication (email, phone, letter, etc.), persons involved, if known, and general substance of the representation.

9. Please describe any communications, correspondence, or interactions between You and any representative of Augustine Temperature Management, including but not limited to Dr. Scott Augustine. NONE

VII. ECONOMIC DAMAGES

1. Are you making a claim for loss of past wages or income?

____ Yes ☒ No

If "yes," state the following:

Approximate time you lost from work: N/AApproximate income you claim you lost: N/A

State your approximate total earned income (including any salary, bonus, and benefits) for each year, beginning three years prior to the injury you allege is related to the use of a Bair Hugger system through the present:

Year	Annual gross income
N/A	

2. Are you making a claim for loss of future wages, income, or earning capacity?

____ Yes ☒ No

If "yes," state the following:

Approximate amount of lost future wages or income you are claiming: \$ N/ABasis for calculation of lost future wages or income: N/A

3. Have you paid out-of-pocket medical expenses that are related to any condition that you allege was caused by a defect in a Bair Hugger system?

____ Yes ☒ No

If “yes,” state the approximate total amount of out-of-pocket medical expenses incurred:

\$ N/A

4. For any expenses claimed above, have they been reimbursed or reduced by any third party?

N/A Yes N/A No

If “yes,” identify who reimbursed or reduced these expenses: _____

N/A

5. To your knowledge, has your insurer, or any other entity or person (including the government or a governmental agency or program), paid or incurred any medical expenses related to any condition that you allege was caused by the Bair Hugger system?

X Yes No

If “yes,” identify the name and approximate dates during which your insurer, or other entity or person, paid or incurred any such medical expenses. _____

Medicare, 2018, 2020 & 2021

6. Provide a statement of the nature and approximate amount of any other economic damages you claim in this lawsuit: _____

N/A

VIII. PERSONS WITH KNOWLEDGE

1. Identify each person (other than your healthcare providers or attorneys) who possesses important information about the facts of your lawsuit, including your injuries and current medical conditions, to the extent not already listed:

Name	Address	Relationship to You	Subject Matter of Knowledge
William Perry Walker	39 Eleanor St, Lavale, MD 21502	Friend	Medical Information

2. Has anyone (other than your healthcare providers or attorneys) provided you with a verbal or written statement about the facts or circumstances relating to this lawsuit, including the use of patient warming systems or the conduct or representations of Defendants?

____ Yes X No

If "yes," please identify the person, state when they gave you this statement and summarize its contents: _____

N/A

IX. LOSS OF CONSORTIUM PLAINTIFFS

1. State the following:

a. Your name: N/A

b. Any other names (e.g., maiden name or alias) you have used or by which you have been known and the dates you used those names: N/A

c. Your Social Security Number: N/A

d. Your address: N/A

e. State how long you have lived at your present address: N/A

2. Sex: Male: N/A Female: N/A

3. Identify each address at which you have resided during the last five (5) years, and list when you started and stopped living at each one:

Address	Dates of Residence
N/A	

4. Are you currently, or have you ever been, married to the primary plaintiff in this action?
N/A Yes N/A No

If "yes," please state when and where you were married, how long you were married, and when and how the marriage ended (if it did): _____

N/A

5. Do you have any children with the primary plaintiff? N/A Yes N/A No

If "yes," please identify their names and years of birth: _____

N/A

6. Describe separately and in detail each and every loss of care, services, companionship, counsel, advice, assistance, comfort, consortium, or any similar loss you are claiming:

N/A

TIMELINE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Addendum of Connelly, Michael (01/18/1946)

Page 10:

5. List all of the medications (prescription and over the counter) you currently take.

Medication	Dose/ Frequency of Use	Physician Ordering	Purpose
Lisinopril	40 mg / Daily	Robert A. Welik, MD	High Blood Pressure
Amlodipine	10 mg / Daily	Robert A. Welik, MD	High Blood Pressure
Hydralazine	25 mg / Daily	Robert A. Welik, MD	High Blood Pressure
Humalog	10-15 units / Daily	Renee Schwertfeger, NP	Diabetes
Lantus	40 mg / Daily	Renee Schwertfeger, NP	Diabetes

X. DOCUMENTATION

1. **Authorizations:** Please sign and attach to this Fact Sheet the authorizations for release of records appended hereto.
2. **Documents within your possession:** if you have any of the following materials in your possession, please attach a copy to this Fact Sheet.
 - A. All diagnostic tests and test results, including original films or video of ultra sounds, MRIs, x-rays, CT scans, etc., taken during the time from ten (10) years before the surgery at which you allege you were injured by use of a 3MTM Bair HuggerTM Patient Warming System to the present.
 - B. Copies of all documents from physicians, healthcare providers, or others related to the surgery at which you claim you were injured, any patient warming system, or your recovery from surgery.
 - C. Any documents that reflect, show or establish the use of a Bair Hugger system during the surgery at which you claim you were injured.
 - D. All documents related to, concerning, or constituting product use instructions, product warnings, package inserts, warranties, guarantees, or other materials provided to you that relate to the Bair Hugger system.
 - E. All non-privileged statements obtained from or given by any person having knowledge of facts relevant to your specific case.
 - F. All documents relating to the surgery at which you claim you were injured, including, but not limited to medical records, medical bills, prescriptions, diaries, notes, rehabilitation instructions, etc., whether made by you or any other person or entity.
 - G. All documents regarding the health risks or hazards associated with or possibly arising from surgery, which you received or generated in connection with or at any time before the surgery at which you claim you were injured.
 - H. All documents in your possession that you believe were provided to you by any Defendant (unless they first were given to you by your attorney), related to the claims in your case.
 - I. All documents and things in your possession that relate to any Defendant and were in your possession before the surgery at which you claim you were injured, related to the claims in your case.
 - J. If you claim to have suffered a loss of earnings, or lost earnings capacity, your federal tax returns and W-2s for each year, beginning three years prior to the injury you allege is related to the use of a Bair Hugger system through the present.


K. If you claim any loss from medical expenses, copies of all bills from any physician, hospital, pharmacy, or other healthcare provider.

L. Decedent's death certificate (if applicable).

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that all of the information provided in this Fact Sheet is true and correct to the best of my knowledge.

Michael Connelly
Print Name


Michael Connelly (Apr 8, 2025 17:52 EDT)
Signature

04/08/2025
Date

Print Name
(Loss of Consortium Plaintiff)

Signature

Date

LIMITED AUTHORIZATION TO DISCLOSE HEALTH INFORMATION

(Pursuant to the Health Insurance Portability and Accountability Act "HIPAA" of 4/14/03)

TO:

Patient Name: Michael Connelly

DOB: 01/18/1946

SSN: 218-50-0532

I, Michael Connelly, hereby authorize you to release and furnish to:
Norton Rose Fulbright and/or its designee copies of the following information:

- * All medical records, including inpatient, outpatient, and emergency room treatment, all clinical charts, reports, documents, correspondence, test results, statements, questionnaires/histories, office and doctors' handwritten notes, and records received by other physicians, dated from _____ (seven years prior to the date of the subject surgery) to the present.
- * All autopsy, laboratory, histology, cytology, pathology, radiology, CT Scan, MRI, echocardiogram and cardiac catheterization reports, dated from _____ (seven years prior to the date of the subject surgery) to the present.
- * All radiology films, mammograms, myelograms, CT scans, photographs, bone scans, pathology/cytology/histology/autopsy/immunohistochemistry specimens, cardiac catheterization videos/CDs/films/reels, and echocardiogram videos, dated from _____ (seven years prior to the date of the subject surgery) to the present.
- * All pharmacy/prescription records, including NDC numbers and drug information handouts/monographs, dated from _____ (seven years prior to the date of the subject surgery) to the present.
- * All billing records including all statements, itemized bills, and insurance records, dated from _____ (seven years prior to the date of the subject surgery) to the present.

1. To my medical provider: **this authorization is being forwarded by, or on behalf of, attorneys for the defendant for the purpose of litigation. You are not authorized to discuss any aspect of the above-named person's medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on his or her medical or physical condition, unless you receive an additional authorization permitting such discussion. Subject to all applicable legal objections, this restriction does not apply to discussing my medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on my medical or physical condition at a deposition or trial.**

2. I understand that the information in my health record may include information relating to information about behavioral or mental health services and treatment for alcohol and drug abuse.
3. I understand that I have the right to revoke this authorization at any time. I understand that if I revoke this authorization, I must do so in writing and present my written revocation to the health information management department. I understand the revocation will not apply to information that has already been released in response to this authorization. I understand the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy. Unless otherwise revoked, this authorization will expire in one year.
4. I understand that authorizing the disclosure of this health information is voluntary. I can refuse to sign this authorization. I need not sign this form in order to assure treatment. I understand I may inspect or copy the information to be used or disclosed as provided in C.F.R. 164.524. I understand that any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules. If I have questions about disclosure of my health information, I can contact the releaser indicate above.
5. A notarized signature is not required. C.F.R. 164.508. A copy of this authorization may be used in place of an original.

Print Name: Michael Connelly (plaintiff/representative)

Signature: 
Michael Connelly (Apr 8, 2025 17:52 EDT) Date: 04/08/2025



May 8, 2025

Via Email and U.S. Mail

Gabriel Assaad
McDonald Worley, PC
1770 St. James Place Suite 100
Houston, TX 77056
Gassaad@mcdonaldworley.com

Norton Rose Fulbright US LLP
60 South Sixth Street, Suite 3100
Minneapolis, Minnesota 55402
United States of America

Direct line +1 612 321 2289
simon.gottlieb@nortonrosefulbright.com

Tel +1 612 321 2800
Fax +1 612 321 2288

Re: *In re Bair Hugger Forced Air Warming Devices Products Liability Litigation*
MDL No. 26666 – Deficiencies in Plaintiff Fact Sheet
Cuningham, Nancy v. 3M Company et al Case No.:0:25-cv-00506-JNE-DTS

Dear Counsel:

We are in receipt of the Plaintiff Fact Sheet (PFS) for the above-captioned matter. The PFS has core deficiencies, as set forth in the enclosed report.

Paragraph 4 of Pretrial Order No. 14 (PTO 14), identifies those questions in the PFS which, if not properly responded to, constitute core deficiencies. PTO 14 also defines failure to verify the responses and failure to provide an executed medical authorization as core deficiencies. Additionally, the instructions for the PFS prohibit leaving spaces blank, and provide: “If a question is not applicable to you, please state ‘Not Applicable’ or ‘N/A.’”

Pursuant to Paragraph 6 of PTO 14, within three weeks of this letter, you must respond in writing by either (1) curing the deficiencies (by serving a revised, verified PFS to Norton Rose Fulbright’s dedicated PFS email account, (2) disputing the deficiency and setting forth the reasons the PFS is not deficient, or (3) explaining why the deficiencies cannot be timely cleared. If you serve an amended PFS, be advised that you do not need to resubmit documents that were previously served.

Sincerely,

/s/Simon J. Gottlieb

Simon Gottlieb
cc: Plaintiffs’ Liaison Counsel

Enclosure May 8, 2025

Norton Rose Fulbright US LLP is a limited liability partnership registered under the laws of Texas.

Norton Rose Fulbright US LLP, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright Canada LLP and Norton Rose Fulbright South Africa Inc are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients. Details of each entity, with certain regulatory information, are available at nortonrosefulbright.com.

Core Deficiencies

Sec. III: 1

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

PLAINTIFF FACT SHEET

This Document Relates To:
All Actions

Plaintiff: _____

(Printed Name)

This Plaintiff Fact Sheet must be completed pursuant to the Pretrial Order by each plaintiff or their personal representative. Section IX must be completed by loss of consortium plaintiffs.

In completing this Fact Sheet, you are under oath and must provide information that is true and correct to the best of your knowledge. Please answer every question, and do not leave any blanks throughout this Fact Sheet. If you cannot recall all of the details requested, please provide as much information as you can. If a question is not applicable to you, please state “Not Applicable” or “N/A.” If any information you need to complete this Fact Sheet is in the possession of your attorney or other representative, please consult with that attorney or representative so that you can fully and accurately respond to the questions. If you do not have room in the space provided to complete your answer, please attach as many sheets of paper as necessary to fully answer the questions. You are obligated to supplement your responses if you learn that they are incomplete or incorrect in any material respect. No answer requires any waiver of privilege.

As used herein, the term “communication” and/or “correspondence” shall mean and refer to any oral, written or electronic transmission of information, including, without limitation, meetings, discussions, conversations, telephone calls, memoranda, letters, e-mails, text messages, conferences, or seminars or any other exchange of information.

As used herein, the term “identify” or “identity” with respect to persons, means to give, to the extent known, the person’s full name, their present or last known addresses and phone numbers.

As used herein, the term “person” means natural person, as well as corporate and/or governmental entity.

As used herein, “your attorney” refers to the attorneys that represent you individually in this lawsuit.

As used herein, the terms “Relating to,” “relate to,” “referring to,” “refer to,” “reflecting,” “reflect,” “concerning,” or “concern” shall mean evidencing, regarding, concerning,

CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

discussing, embodying, describing, summarizing, containing, constituting, showing, mentioning, reflecting, pertaining to, dealing with, relating to, referring to in any way or manner, or in any way logically or factually, connecting with the matter described in that paragraph of these demands, including documents attached to or used in the preparation of or concerning the preparation of the documents.

NOTE TO PEOPLE IN A REPRESENTATIVE CAPACITY

If you are completing this form in a representative capacity, only the information in Section I asks for information about you, individually. Throughout the rest of the Plaintiff Fact Sheet, the questions seek information about the person who you claim was injured, or on whose behalf you bring this lawsuit. Other than in Section I, when a question asks for information about “you” or the “plaintiff,” please provide information about the person you claim was injured or on whose behalf you have brought this lawsuit.

I. CASE INFORMATION

1. Name of person completing this form: _____
2. State the following for the civil action which you filed:
 - a. Current case caption: _____
 - b. Current case number: 0:25-cv-00506
3. State the name, address, telephone and facsimile numbers, and e-mail address of the principal attorney representing you:
 - a. Name: Gabriel Assaad
 - b. Firm: McDonald Worley
 - c. Address: 1770 St. James Pl. Suite 100
 - d. Telephone: 713-523-5500 Fax: 713-523-5501
 - e. E-mail: bairhugger@mcdonaldworley.com
4. If you are completing this questionnaire in a representative capacity (*e.g.*, on behalf of an estate, or incapacitated or deceased person), please state the following information about yourself:
 - a. Name: N/A
 - b. Any other names (*e.g.*, maiden name or alias) you have used or by which you have been known and the dates you used those names: _____
N/A

- c. Your Address: N/A
- d. Individual or estate you are representing, and in what capacity you are representing the individual or estate: N/A
- e. If you were appointed as a representative by a court, state the court: N/A
- f. Date of Appointment: N/A
- g. State your relationship with the represented person claimed to be injured: N/A
- h. If you represent a decedent's estate, state the date and the address of the place of death: N/A

II. PERSONAL INFORMATION (re Person claiming injuries)

1. State the following regarding your personal information:
- a. Full Name: [REDACTED]
- b. Any other names (*e.g.*, maiden name or alias) you have used or by which you have been known and the dates when you used those names: Sartor 1959 - 1980, Lincecum 1980-1988, Mendoza 1988 - 1989, Cunningham 2009 - Present
- c. Social Security Number: [REDACTED]
- d. Address: 1650 Lake Ridge Blvd, Canyon Lake, TX 78133
- e. State how long you have lived at your present address: 2 Years
- f. Identify all persons who lived with you at the time of the events alleged in the Complaint, and their relationship to you: Richard Cunningham, Husband

2. Driver's license number and state issuing license: 08148324; TX
3. Date and place of birth: [REDACTED]; Freeport, Texas
4. Sex: Male: Female: X
5. If you have Medicare, please state your HICN number (if known):
Unknown
6. Identify each address at which you have resided during the last ten (10) years, and list the approximate years when you started and stopped living at each one:

Address	Dates of Residence
[REDACTED]	2023 - Present
[REDACTED]	2013 - 2023

7. Are you currently, or have you ever been, married? X Yes No

If "yes," for each spouse, please state the following:

Name and Address (if different from yours) of Spouse	Spouse's Date of Birth	Date Marriage Began/Ended	How Marriage Ended
Richard Cunningham	09/10/1959	2009 - Present	N/A

8. For each of your children, please state their name and year of birth:
N/A

9. Identify the following information for each school, college, university, vocational school, or other educational institution you have attended beginning with high school:

Name of School	City and State	Dates of attendance	Degree Awarded	Major or Primary Field
Sweeny High School	Sweeny, TX	1973 - 1978	Diploma	General Studies

10. For your current employer (if you are not currently employed, your last employer) and each employer for the last ten (10) years, state the following to the extent you can recall:

Name and Address of Employer	Approx. Dates of Employment	Occupation/Job Title	Reason for Leaving
Brazoria County 111 E Locust St. Angleton, TX 77515	2010 - 2020	Baliff	Disability/Covid

11. Have you ever served in any branch of the military?

Yes _____ No X

Branch(es) and date(s) of service N/A

If yes, were you ever discharged for any reason relating to your medical or physical condition?

Yes N/A No N/A

If yes, state what that condition was: N/A

12. Have you ever been rejected from military service for any reason relating to your medical or physical condition?

Yes _____ No X

If yes, state what the condition was: N/A

13. Have you been convicted of a felony or a crime involving a dishonest act or false statement in the last ten (10) years?

____ Yes ☒ No

If "yes," state the type and nature of the underlying conduct or event: _____

N/A

Court/State entering conviction: N/A

Date of conviction: N/A

14. Do you recall ever visiting a website, blog, etc., regarding the use of patient warming systems during surgery, or any risks or benefits to patient warming in general or by device type? If so, identify the website, blog, etc., you visited and the location of any copy of the information you reviewed if it still exists:

No.

15. Do you recall ever posting or writing anywhere on the internet in a public forum about Defendants, any patient warming system or device, or the injuries you allege were caused by Defendants' product, including but not limited to, posting on a personal website, blog, Facebook account, Linked In account, or other social media?

____ Yes ☒ No

If "yes," then identify the web address or name and type of social media, and approximate dates during which you made such posts: _____

N/A

16. Do you have any drawings, journals, slides, diaries, notes, letters, or emails which refer to your health or well being relating to your surgery, alleged injury, and your life after your alleged injury?

Photos.

III. SURGERY INFORMATION

To the extent responsive information to the questions below is available in medical records in your possession or in the possession of your attorneys, please produce such records.

1. Do you have information that a Bair Hugger™ Patient Warming System (“Bair Hugger system”) was used during the surgery allegedly connected to the infection at issue?

☒ Yes ☐ No

If “yes,” please describe that information? I found information that the Bair Hugger was used during my surgery.

When did you first discover this information? 02/10/2025

How did you learn this? From my medical records

Provide the Serial or Model Number of the device used: Unknown

Where is this product now? Unknown

2. Other than based upon information from a consulting expert, do you have information as to whether the operating room (where the surgery at which you claim you were injured was performed) utilized a laminar air flow system at the time of your surgery?

☐ Yes, it did. ☐ No, it did not. ☒ Do not know.

What is the source of your knowledge? N/A

When did you learn this? N/A

Other than based upon information from a consulting expert, identify any documents or records that contain information about the laminar air flow system used in the operating room at the time of your surgery: N/A

3. State the following information related to the surgery or surgeries at which you claim you were injured by a Bair Hugger system (answer separately for each surgery at issue):

Date of surgery: 09/2018

Location of surgery (hospital or facility name and full address):

[REDACTED]

Identify the physician performing the surgery: Vasilios Mathews, MD

Type of surgery: _____

Reason for surgery: _____

Your height and weight at the time of surgery: 5'6"; 170 lbs

List all medical conditions or diagnoses (for example, high blood pressure or diabetes) that you had at the time you went into surgery: _____

High Blood Pressure

Identify any infections you had, if any, during the 6 months before you had surgery: _____
None.

Identify all persons with whom you had discussions about the risks of surgery, and describe the risks discussed: I had the discussion with my doctor at the time, and it was mentioned to me about the risks of having surgery.

Identify the type of microbe, bacterium, virus, or organism, you allege caused the infection that is the subject of this lawsuit (if known) and the basis for your knowledge if not subject to privilege: Unknown

4. Has anyone, excluding any retained medical or scientific expert or your attorneys, expressed the opinion or otherwise told you that the Bair Hugger system caused the infection or injury that is the basis for this lawsuit?

Yes _____ No ☒ X

If yes, identify the person who told you and their relationship to you:

What were you told? N/A

5. Are you aware of any non-privileged tests or inspections that have been conducted of the Bair Hugger system allegedly used at your surgery, or of any other Bair Hugger device?

☐ Yes ☒ X No

If "yes," state the following:

Date(s) of testing: N/A

Model/Serial No. of unit(s): N/A

Name and address of person or entity that conducted testing: N/A

Description of tests conducted: N/A

Results of testing: N/A

IV. GENERAL MEDICAL INFORMATION

1. Identify the following vital statistics:

Current (last) height: 5'6"

Current (last) weight: 170 lbs

2. Identify the name and address of your current (last) family and/or primary care physician:

Anthony Bienek, DO - 14100 Ranch Rd 12 #900, Wimberley, TX 78676

3. Identify all healthcare providers with whom you have consulted or treated beginning seven (7) years before the surgery at which you claim you were injured by a Bair Hugger system through the present, and for each provider, state the following information:

Doctor or Healthcare Provider's Name	Specialty	Address	Approx. Dates/Years of Visits	Reasons for Seeing this Provider
Anthony Bienek, DO	General Health	14100 Ranch Rd 12 #900, Wimberley, TX 78676	2015 - 2024	General Health
Vasilios Mathews, M.D.	Orthopedic Surgeon	7401 South Main Street, Houston, TX 77030	09/2018 - 03/2020	Left Knee Issues
Seema Shah, M.D.	Infectious Disease	7401 Main St, Houston, TX 77030	2018 - Present	Infection

4. For each hospital, clinic, surgery center, healthcare facility, physical therapy or rehabilitation center where you have received medical treatment (in-patient, out-patient, urgent care or emergency room) from the time seven (7) years before the surgery at which you claim you were injured by a Bair Hugger system to the present, state the following information:

Name	Address and Telephone Number	Admission Date(s)	Reason for Admission

5. List all of the medications (prescription and over the counter) you currently take.

Medication	Dose/ Frequency of Use	Physician Ordering	Purpose
Irbesartan	37mg / Daily	Anthony Bienek, DO	High Blood Pressure
Lexapro	10mg / Daily	Anthony Bienek, DO	Depression
Vacyclaviere	500mg / Daily	Anthony Bienek, DO	Herpes Virus
(See Addendum)			

6. For each prescription medication you have taken at least once a month over the course of four months or more at any time during the last seven (7) years prior to the surgery, other than the ones above, identify the following information:

Name of Prescription Medication	Who Prescribed the Medication	Understanding of Reason for Taking	Dates/years taken
N/A			

7. Identify the following for each pharmacy, drugstore, or other facility or supplier (including, but not limited to, mail order pharmacies) that has dispensed medication to you in the past five (5) years:

Name of Pharmacy	Address and Telephone Number of Pharmacy	Approx. Dates/Years You Used Pharmacy
CVS	19995 TX-46, Spring Branch, TX 78070 Ph: 830-438-8001	2017 - Present

8. Identify all dental procedures you had beginning 6 months prior to and continuing through 6 months after the surgery during which you claim you were injured by the Bair Hugger system. For each procedure, provide the following information:

Dentist or Healthcare Provider's Name	Address	Date of Procedure	Type of Procedure
N/A			

9. Have you ever used tobacco in any form from the time five (5) years before the surgery at which you claim you were injured by the Bair Hugger system to present?

____ Yes ☒ No

If "yes," check the answer and state the following:

Type(s) of tobacco used: N/A

Date on which you began using tobacco: N/A

Date on which you ceased using tobacco (if current user, state N/A): N/A

Amount of tobacco used: N/A per day for N/A years.

Other description of tobacco use: N/A

10. For the time period starting one (1) year before the surgery at which you claim you were injured by the Bair Hugger system to the present, have you been treated as an in-patient or out-patient for drug or alcohol abuse or addiction?

____ Yes ☒ No

If "yes," please provide the name of the facility and approximate dates of treatment

V. INSURANCE AND OTHER CLAIM INFORMATION

1. Identify any person, insurance company (including any Medicare Advantage Organization), or other entity, including Medicare or Medicaid, that provided medical coverage to you (either directly or through a group, including any employer) or paid medical bills on your behalf at any time, beginning five (5) years before your alleged injuries through the present.

Name of Entity	Policy Number	Name of Policy Holder or Insured (if not you)	Approx. Dates of Coverage
Medicare	Unknown	Self	2018 - Present
Aetna	101642626000	Self	2018 - Present

3. Have you ever filed a worker's compensation claim in the last ten (10) years?

____ Yes ☒ No

If "yes," please state:

The approximate year of the claim: N/A

Your employer: N/A

Nature of disability: N/A

4. Have you ever been out of work for more than thirty (30) days in any one or more of the last ten (10) years, for any reasons related to your health excluding maternity leave?

____ Yes ☒ No

If "yes," please state:

The approximate date(s) you were out of work: N/A

The reason(s) you were out of work: N/A

5. Have you ever filed social security disability claims (SSI or SSD) or filed a disability claim with a private insurer?

☒ Yes ☐ No

If "yes," please state:

Approximate year of the claim: 2019

Nature of disability: Knees

Was the claim denied? ☐ Yes ☒ No

6. Have you ever filed a lawsuit or made a claim, other than the present lawsuit, relating to any bodily injury in the last ten (10) years?

☐ Yes ☒ No

If "yes," please state:

Approximate date the lawsuit or claim was filed or made: N/A

Court/State where the lawsuit was filed: N/A

Name of the Defendant, if known: N/A

Brief description of the claims asserted: N/A

7. Have you ever filed for bankruptcy subsequent to the date of the surgery in which you claim you were injured by the Bair Hugger system?

☐ Yes ☒ No

If "yes," state when and in what court, and how the case was resolved. _____

N/A

VI. CURRENT CLAIM INFORMATION

1. Do you allege that you suffered physical and/or bodily injury related to use of a Bair Hugger system?

☒ Yes ☐ No

If "yes": describe each bodily injury:

Following my surgery where Bair Hugger was used, I suffered a postoperative infection requiring intervention, management and 3 surgeries. See timeline of care on page 20 and medical records provided for additional information.

State the approximate date on which you first became aware of the injury(ies) (regardless of whether you associated the injury with the use of a Bair Hugger system): _____

09/2018

If you are currently experiencing any symptoms related to an alleged injury that you attribute to use of a Bair Hugger system, describe your symptoms and any treatment you are currently receiving: _____

_____.

Describe any activities that you can no longer perform, or cannot perform as well, since the time you allege you were injured: _____

Describe any other physical harm or consequences you suffered as a result: _____

I do not use anything just in alot of pain

2. Do you allege that use of a Bair Hugger system worsened or aggravated a previously existing injury or condition?

☐ Yes ☒ No NOT TO MY KNOWLEDGE

If "yes," describe the previously existing injury or condition, the approximate date of onset of the previously existing injury or condition, and any treatment for and resolution of the injury or condition: _____

N/A

3. Do you claim damages related to emotional distress or psychological injuries as a result of use of a Bair Hugger system?

☒ Yes ☐ No

If "yes," describe the emotional distress or psychological injuries and the approximate date of onset: _____

Depression and Anxiety, was on medication before all of this. Onset 2018.

4. If you are claiming damages related to emotional distress, provide the following information for any psychiatrist, psychologist, or any other mental healthcare professional who has ever treated you, or who you are currently seeing, for any alleged emotional distress or psychological injuries described in the previous question:

Doctor or Healthcare Provider's Name	Specialty	Address	Reason for Visit	Approx. Dates/Years of Visits
N /A				

5. Have you read or seen any written, televised, or internet-based advertising or labeling material related to a Bair Hugger system other than in consultation with your attorney?

☐ Yes ☒ No

If "yes," state which written, televised, or internet-based advertising or labeling materials you read or saw and when you reviewed those materials: _____

N/A

6. In connection with the surgery at which you claim you were injured, were you given any oral or written information or warnings concerning the Bair Hugger system?

☐ Yes ☒ No

If "yes," state the following:

When these were given: N/A

A description of the information or warnings: N/A

Identify each person or entity from whom you recall receiving the information or warnings listed above:

N/A

If you recall, list any questions you asked, and the answers they gave, regarding the information or warnings listed above:

N/A

7. Have you or has anyone acting on your behalf (other than your attorney) had any communications with any Arizant or 3M representative regarding your surgery with and/or claim of injuries from use of a Bair Hugger system?

 Yes X No

If "yes," provide the approximate date(s), type (email, phone, letter, etc.), persons involved, if known, and general substance of the communication:

N/A

8. Did any representative of Arizant or 3M ever tell you that you got a warranty related to the Bair Hugger™ Patient Warming System or otherwise represent to you the expected performance of the Bair Hugger system ?

 Yes X No

If "yes," state the following: provide the approximate date(s), type of communication (email, phone, letter, etc.), persons involved, if known, and general substance of the representation.

9. Please describe any communications, correspondence, or interactions between You and any representative of Augustine Temperature Management, including but not limited to Dr. Scott Augustine. NONE

VII. ECONOMIC DAMAGES

1. Are you making a claim for loss of past wages or income?

____ Yes ☒ No

If “yes,” state the following:

Approximate time you lost from work: N/A

Approximate income you claim you lost: N/A

State your approximate total earned income (including any salary, bonus, and benefits) for each year, beginning three years prior to the injury you allege is related to the use of a Bair Hugger system through the present:

Year	Annual gross income
N/A	

2. Are you making a claim for loss of future wages, income, or earning capacity?

____ Yes ☒ No

If “yes,” state the following:

Approximate amount of lost future wages or income you are claiming: \$ N/A

Basis for calculation of lost future wages or income: N/A

3. Have you paid out-of-pocket medical expenses that are related to any condition that you allege was caused by a defect in a Bair Hugger system?

☒ Yes ____ No

If "yes," state the approximate total amount of out-of-pocket medical expenses incurred:

\$ 10,000.00

4. For any expenses claimed above, have they been reimbursed or reduced by any third party?

____ Yes ☒ No

If "yes," identify who reimbursed or reduced these expenses: _____

N/A

5. To your knowledge, has your insurer, or any other entity or person (including the government or a governmental agency or program), paid or incurred any medical expenses related to any condition that you allege was caused by the Bair Hugger system?

☒ Yes ____ No

If "yes," identify the name and approximate dates during which your insurer, or other entity or person, paid or incurred any such medical expenses. _____

Medicare and Aetna 2018 - Present

6. Provide a statement of the nature and approximate amount of any other economic damages you claim in this lawsuit: _____

None

VIII. PERSONS WITH KNOWLEDGE

1. Identify each person (other than your healthcare providers or attorneys) who possesses important information about the facts of your lawsuit, including your injuries and current medical conditions, to the extent not already listed:

Name	Address	Relationship to You	Subject Matter of Knowledge
Donna Ermis	Katy, Texas	Sister	Medical Information and Lawsuit Information

2. Has anyone (other than your healthcare providers or attorneys) provided you with a verbal or written statement about the facts or circumstances relating to this lawsuit, including the use of patient warming systems or the conduct or representations of Defendants?

____ Yes ☒ No

If “yes,” please identify the person, state when they gave you this statement and summarize its contents: _____

N/A

IX. LOSS OF CONSORTIUM PLAINTIFFS

1. State the following:

- a. Your name: N/A
- b. Any other names (e.g., maiden name or alias) you have used or by which you have been known and the dates you used those names: _____
N/A
- c. Your Social Security Number: N/A
- d. Your address: N/A
- e. State how long you have lived at your present address: N/A

2. Sex: Male: N/A Female: N/A

3. Identify each address at which you have resided during the last five (5) years, and list when you started and stopped living at each one:

Address	Dates of Residence
N/A	

4. Are you currently, or have you ever been, married to the primary plaintiff in this action?
N/A Yes N/A No

If “yes,” please state when and where you were married, how long you were married, and when and how the marriage ended (if it did): _____

N/A

5. Do you have any children with the primary plaintiff? N/A Yes N/A No

If “yes,” please identify their names and years of birth: _____

N/A

6. Describe separately and in detail each and every loss of care, services, companionship, counsel, advice, assistance, comfort, consortium, or any similar loss you are claiming:

N/A

TIMELINE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Addendum of Cunningham, Nancy (10/12/1959)

Page 4:

7. Are you currently, or have you ever been, married? ____ Yes ____ No

If "yes," for each spouse, please state the following:

Name and Address (if different from yours) of Spouse	Spouse's Date of Birth	Date Marriage Began/Ended	How Marriage Ended
Vincent Mendoza Texas	02/1960	1988 - 1989	Divorced
Mark Lincecum Texas	12/1939	1980 - 1988	Divorced

Page 10:

5. List all of the medications (prescription and over the counter) you currently take.

Medication	Dose/ Frequency of Use	Physician Ordering	Purpose
Zonisamide	25mg / Daily	Anthony Bienek, DO	Vertigo
Estradiol	2mg / Daily	Anthony Bienek, DO	Hysterectomy

X. DOCUMENTATION

1. **Authorizations:** Please sign and attach to this Fact Sheet the authorizations for release of records appended hereto.
2. **Documents within your possession:** if you have any of the following materials in your possession, please attach a copy to this Fact Sheet.
 - A. All diagnostic tests and test results, including original films or video of ultra sounds, MRIs, x-rays, CT scans, etc., taken during the time from ten (10) years before the surgery at which you allege you were injured by use of a 3MTM Bair HuggerTM Patient Warming System to the present.
 - B. Copies of all documents from physicians, healthcare providers, or others related to the surgery at which you claim you were injured, any patient warming system, or your recovery from surgery.
 - C. Any documents that reflect, show or establish the use of a Bair Hugger system during the surgery at which you claim you were injured.
 - D. All documents related to, concerning, or constituting product use instructions, product warnings, package inserts, warranties, guarantees, or other materials provided to you that relate to the Bair Hugger system.
 - E. All non-privileged statements obtained from or given by any person having knowledge of facts relevant to your specific case.
 - F. All documents relating to the surgery at which you claim you were injured, including, but not limited to medical records, medical bills, prescriptions, diaries, notes, rehabilitation instructions, etc., whether made by you or any other person or entity.
 - G. All documents regarding the health risks or hazards associated with or possibly arising from surgery, which you received or generated in connection with or at any time before the surgery at which you claim you were injured.
 - H. All documents in your possession that you believe were provided to you by any Defendant (unless they first were given to you by your attorney), related to the claims in your case.
 - I. All documents and things in your possession that relate to any Defendant and were in your possession before the surgery at which you claim you were injured, related to the claims in your case.
 - J. If you claim to have suffered a loss of earnings, or lost earnings capacity, your federal tax returns and W-2s for each year, beginning three years prior to the injury you allege is related to the use of a Bair Hugger system through the present.

K. If you claim any loss from medical expenses, copies of all bills from any physician, hospital, pharmacy, or other healthcare provider.

L. Decedent's death certificate (if applicable).

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that all of the information provided in this Fact Sheet is true and correct to the best of my knowledge.

Nancy Cunningham

Print Name



Nancy Cunningham (Apr 2, 2025 15:10 CDT)

Signature

04/02/2025

Date

Print Name

(Loss of Consortium Plaintiff)

Signature

Date

LIMITED AUTHORIZATION TO DISCLOSE HEALTH INFORMATION

(Pursuant to the Health Insurance Portability and Accountability Act "HIPAA" of 4/14/03)

TO:

Patient Name: Nancy Cunningham

DOB: 10/12/1959

SSN: 467-31-1237

I, Nancy Cunningham, hereby authorize you to release and furnish to:
Norton Rose Fulbright and/or its designee copies of the following information:

- * All medical records, including inpatient, outpatient, and emergency room treatment, all clinical charts, reports, documents, correspondence, test results, statements, questionnaires/histories, office and doctors' handwritten notes, and records received by other physicians, dated from _____ (seven years prior to the date of the subject surgery) to the present.
 - * All autopsy, laboratory, histology, cytology, pathology, radiology, CT Scan, MRI, echocardiogram and cardiac catheterization reports, dated from _____ (seven years prior to the date of the subject surgery) to the present.
 - * All radiology films, mammograms, myelograms, CT scans, photographs, bone scans, pathology/cytology/histology/autopsy/immunohistochemistry specimens, cardiac catheterization videos/CDs/films/reels, and echocardiogram videos, dated from _____ (seven years prior to the date of the subject surgery) to the present.
 - * All pharmacy/prescription records, including NDC numbers and drug information handouts/monographs, dated from _____ (seven years prior to the date of the subject surgery) to the present.
 - * All billing records including all statements, itemized bills, and insurance records, dated from _____ (seven years prior to the date of the subject surgery) to the present.
1. To my medical provider: **this authorization is being forwarded by, or on behalf of, attorneys for the defendant for the purpose of litigation. You are not authorized to discuss any aspect of the above-named person's medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on his or her medical or physical condition, unless you receive an additional authorization permitting such discussion. Subject to all applicable legal objections, this restriction does not apply to discussing my medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on my medical or physical condition at a deposition or trial.**

2. I understand that the information in my health record may include information relating to information about behavioral or mental health services and treatment for alcohol and drug abuse.
3. I understand that I have the right to revoke this authorization at any time. I understand that if I revoke this authorization, I must do so in writing and present my written revocation to the health information management department. I understand the revocation will not apply to information that has already been released in response to this authorization. I understand the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy. Unless otherwise revoked, this authorization will expire in one year.
4. I understand that authorizing the disclosure of this health information is voluntary. I can refuse to sign this authorization. I need not sign this form in order to assure treatment. I understand I may inspect or copy the information to be used or disclosed as provided in C.F.R. 164.524. I understand that any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules. If I have questions about disclosure of my health information, I can contact the releaser indicate above.
5. A notarized signature is not required. C.F.R. 164.508. A copy of this authorization may be used in place of an original.

Print Name: Nancy Cunningham (plaintiff/representative)

Signature:  Date: 04/02/2025
Nancy Cunningham (Apr 2, 2025 15:10 CDT)



May 8, 2025

Via Email and U.S. Mail

Gabriel Assaad
McDonald Worley, PC
1770 St. James Place Suite 100
Houston, TX 77056
Gassaad@mcdonaldworley.com

Norton Rose Fulbright US LLP
60 South Sixth Street, Suite 3100
Minneapolis, Minnesota 55402
United States of America

Direct line +1 612 321 2289
simon.gottlieb@nortonrosefulbright.com

Tel +1 612 321 2800
Fax +1 612 321 2288

Re: *In re Bair Hugger Forced Air Warming Devices Products Liability Litigation*
MDL No. 26666 – Deficiencies in Plaintiff Fact Sheet
Harris, Richard v 3M Company et al Case No.:0:25-cv-01066-JNE-DTS

Dear Counsel:

We are in receipt of the Plaintiff Fact Sheet (PFS) for the above-captioned matter. The PFS has core deficiencies, as set forth in the enclosed report.

Paragraph 4 of Pretrial Order No. 14 (PTO 14), identifies those questions in the PFS which, if not properly responded to, constitute core deficiencies. PTO 14 also defines failure to verify the responses and failure to provide an executed medical authorization as core deficiencies. Additionally, the instructions for the PFS prohibit leaving spaces blank, and provide: “If a question is not applicable to you, please state ‘Not Applicable’ or ‘N/A.’”

Pursuant to Paragraph 6 of PTO 14, within three weeks of this letter, you must respond in writing by either (1) curing the deficiencies (by serving a revised, verified PFS to Norton Rose Fulbright’s dedicated PFS email account, (2) disputing the deficiency and setting forth the reasons the PFS is not deficient, or (3) explaining why the deficiencies cannot be timely cleared. If you serve an amended PFS, be advised that you do not need to resubmit documents that were previously served.

Sincerely,

/s/Simon J. Gottlieb

Simon Gottlieb
cc: Plaintiffs’ Liaison Counsel

Enclosure May 8, 2025

Norton Rose Fulbright US LLP is a limited liability partnership registered under the laws of Texas.

Norton Rose Fulbright US LLP, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright Canada LLP and Norton Rose Fulbright South Africa Inc are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients. Details of each entity, with certain regulatory information, are available at nortonrosefulbright.com.

Core Deficiencies

Sec. III: 1

Sec. VI: 3

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

PLAINTIFF FACT SHEET

This Document Relates To:
All Actions

Plaintiff: _____



(Printed Name)

This Plaintiff Fact Sheet must be completed pursuant to the Pretrial Order by each plaintiff or their personal representative. Section IX must be completed by loss of consortium plaintiffs.

In completing this Fact Sheet, you are under oath and must provide information that is true and correct to the best of your knowledge. Please answer every question, and do not leave any blanks throughout this Fact Sheet. If you cannot recall all of the details requested, please provide as much information as you can. If a question is not applicable to you, please state “Not Applicable” or “N/A.” If any information you need to complete this Fact Sheet is in the possession of your attorney or other representative, please consult with that attorney or representative so that you can fully and accurately respond to the questions. If you do not have room in the space provided to complete your answer, please attach as many sheets of paper as necessary to fully answer the questions. You are obligated to supplement your responses if you learn that they are incomplete or incorrect in any material respect. No answer requires any waiver of privilege.

As used herein, the term “communication” and/or “correspondence” shall mean and refer to any oral, written or electronic transmission of information, including, without limitation, meetings, discussions, conversations, telephone calls, memoranda, letters, e-mails, text messages, conferences, or seminars or any other exchange of information.

As used herein, the term “identify” or “identity” with respect to persons, means to give, to the extent known, the person’s full name, their present or last known addresses and phone numbers.

As used herein, the term “person” means natural person, as well as corporate and/or governmental entity.

As used herein, “your attorney” refers to the attorneys that represent you individually in this lawsuit.

As used herein, the terms “Relating to,” “relate to,” “referring to,” “refer to,” “reflecting,” “reflect,” “concerning,” or “concern” shall mean evidencing, regarding, concerning,

CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

HARRIS, R-000001

discussing, embodying, describing, summarizing, containing, constituting, showing, mentioning, reflecting, pertaining to, dealing with, relating to, referring to in any way or manner, or in any way logically or factually, connecting with the matter described in that paragraph of these demands, including documents attached to or used in the preparation of or concerning the preparation of the documents.

NOTE TO PEOPLE IN A REPRESENTATIVE CAPACITY

If you are completing this form in a representative capacity, only the information in Section I asks for information about you, individually. Throughout the rest of the Plaintiff Fact Sheet, the questions seek information about the person who you claim was injured, or on whose behalf you bring this lawsuit. Other than in Section I, when a question asks for information about “you” or the “plaintiff,” please provide information about the person you claim was injured or on whose behalf you have brought this lawsuit.

I. CASE INFORMATION

1. Name of person completing this form: Richard Alan Harris
2. State the following for the civil action which you filed:
 - a. Current case caption: [REDACTED]
 - b. Current case number: 0:24-cv-3764
3. State the name, address, telephone and facsimile numbers, and e-mail address of the principal attorney representing you:
 - a. Name: Gabriel Assaad
 - b. Firm: McDonald Worley
 - c. Address: 1770 St. James Pl. Suite 100
 - d. Telephone: 713-523-5500 Fax: 713-523-5501
 - e. E-mail: bairhugger@mcdonaldworley.com
4. If you are completing this questionnaire in a representative capacity (e.g., on behalf of an estate, or incapacitated or deceased person), please state the following information about yourself:
 - a. Name: N/A
 - b. Any other names (e.g., maiden name or alias) you have used or by which you have been known and the dates you used those names: N/A

- c. Your Address: N/A
- d. Individual or estate you are representing, and in what capacity you are representing the individual or estate: N/A
- e. If you were appointed as a representative by a court, state the court: N/A
- f. Date of Appointment: N/A
- g. State your relationship with the represented person claimed to be injured: N/A
- h. If you represent a decedent's estate, state the date and the address of the place of death: N/A

II. PERSONAL INFORMATION (re Person claiming injuries)

1. State the following regarding your personal information:
- a. Full Name: [REDACTED]
- b. Any other names (e.g., maiden name or alias) you have used or by which you have been known and the dates when you used those names: Richard Lagour, 1960 - 1965; Richard Harris, 1965 - Present
- c. Social Security Number: [REDACTED]
- d. Address: [REDACTED]
- e. State how long you have lived at your present address: 4 Years
- f. Identify all persons who lived with you at the time of the events alleged in the Complaint, and their relationship to you: Deborah Harris, Significant Other

Name of School	City and State	Dates of attendance	Degree Awarded	Major or Primary Field
N/A				

10. For your current employer (if you are not currently employed, your last employer) and each employer for the last ten (10) years, state the following to the extent you can recall:

Name and Address of Employer	Approx. Dates of Employment	Occupation/Job Title	Reason for Leaving
Taylor Communications 3125 Lewis Centre Way, Grove City, OH 43123	2007 - 05/2020	Operator	Quit due to going on disability

11. Have you ever served in any branch of the military?

Yes _____ No X

Branch(es) and date(s) of service N/A

If yes, were you ever discharged for any reason relating to your medical or physical condition?

Yes N/A No N/A

If yes, state what that condition was: N/A

12. Have you ever been rejected from military service for any reason relating to your medical or physical condition?

Yes _____ No X

If yes, state what the condition was: N/A

13. Have you been convicted of a felony or a crime involving a dishonest act or false statement in the last ten (10) years?

____ Yes ☒ No

If "yes," state the type and nature of the underlying conduct or event: N/A

Court/State entering conviction: N/A

Date of conviction: N/A

14. Do you recall ever visiting a website, blog, etc., regarding the use of patient warming systems during surgery, or any risks or benefits to patient warming in general or by device type? If so, identify the website, blog, etc., you visited and the location of any copy of the information you reviewed if it still exists:

No.

15. Do you recall ever posting or writing anywhere on the internet in a public forum about Defendants, any patient warming system or device, or the injuries you allege were caused by Defendants' product, including but not limited to, posting on a personal website, blog, Facebook account, Linked In account, or other social media?

____ Yes ☒ No

If "yes," then identify the web address or name and type of social media, and approximate dates during which you made such posts: N/A

16. Do you have any drawings, journals, slides, diaries, notes, letters, or emails which refer to your health or well being relating to your surgery, alleged injury, and your life after your alleged injury?

No.

III. SURGERY INFORMATION

To the extent responsive information to the questions below is available in medical records in your possession or in the possession of your attorneys, please produce such records.

1. Do you have information that a Bair Hugger™ Patient Warming System (“Bair Hugger system”) was used during the surgery allegedly connected to the infection at issue?

 X Yes No

If “yes,” please describe that information? I found information that the Bair Hugger was used during my surgery.

When did you first discover this information? 12/8/2023

How did you learn this? From my medical records

Provide the Serial or Model Number of the device used: Unknown

Where is this product now? Unknown

2. Other than based upon information from a consulting expert, do you have information as to whether the operating room (where the surgery at which you claim you were injured was performed) utilized a laminar air flow system at the time of your surgery?

 Yes, it did. No, it did not. X Do not know.

What is the source of your knowledge? N/A

When did you learn this? N/A

Other than based upon information from a consulting expert, identify any documents or records that contain information about the laminar air flow system used in the operating room at the time of your surgery: N/A

3. State the following information related to the surgery or surgeries at which you claim you were injured by a Bair Hugger system (answer separately for each surgery at issue):

Date of surgery: 10/18/2019

Location of surgery (hospital or facility name and full address):

[REDACTED]

Identify the physician performing the surgery: David Huber, MD

Type of surgery: _____

Reason for surgery: _____

Your height and weight at the time of surgery: 6'3"; 200 lbs

List all medical conditions or diagnoses (for example, high blood pressure or diabetes) that you had at the time you went into surgery: _____

Diabetes

Identify any infections you had, if any, during the 6 months before you had surgery: _____

N/A

Identify all persons with whom you had discussions about the risks of surgery, and describe the risks discussed: I had the discussion with my doctor at the time, and it was mentioned to me about the risks of having surgery.

Identify the type of microbe, bacterium, virus, or organism, you allege caused the infection that is the subject of this lawsuit (if known) and the basis for your knowledge if not subject to privilege: Unknown

4. Has anyone, excluding any retained medical or scientific expert or your attorneys, expressed the opinion or otherwise told you that the Bair Hugger system caused the infection or injury that is the basis for this lawsuit?

Yes _____ No X

If yes, identify the person who told you and their relationship to you:

What were you told? N/A

5. Are you aware of any non-privileged tests or inspections that have been conducted of the Bair Hugger system allegedly used at your surgery, or of any other Bair Hugger device?

 Yes X No

If "yes," state the following:

Date(s) of testing: N/A

Model/Serial No. of unit(s): N/A

Name and address of person or entity that conducted testing: N/A

Description of tests conducted: N/A

Results of testing: N/A

IV. GENERAL MEDICAL INFORMATION

1. Identify the following vital statistics:

Current (last) height: 6'1"

Current (last) weight: 217 lbs.

2. Identify the name and address of your current (last) family and/or primary care physician:

Kane J. Michael, MD

1800 Zollinger Rd, Columbus, OH 43221

3. Identify all healthcare providers with whom you have consulted or treated beginning seven (7) years before the surgery at which you claim you were injured by a Bair Hugger system through the present, and for each provider, state the following information:

Doctor or Healthcare Provider's Name	Specialty	Address	Approx. Dates/Years of Visits	Reasons for Seeing this Provider
Kane J. Michael, MD	Family Medicine	1800 Zollinger Rd, Columbus, OH 43221	01/2025 - Present	Primary Care
David Huber, MD	Orthopedic Surgery	170 Taylor Station Rd Fl 3 Columbus, OH, 43213	10/18/2019, 11/2019 & 05/2020	Left Hip Surgeries
Terry Ty Fowler, MD	Orthopedic Surgery	5500 N Meadows Dr, Grove City, OH 43123	08/17/2020 & 09/14/2020 08/2020 - 12/2020	Left Hip Surgeries Follow-Ups
William Morris, MD	Family Medicine	3900 E Livingston Ave, Columbus, OH 43227	2010 - 12/2024	Primary Care
Billy Rutter, DPM	Podiatry	7211 Sawmill Rd # 100, Dublin, OH 43016	2023 - Present	Left Foot Check-Ups due to diabetes

4. For each hospital, clinic, surgery center, healthcare facility, physical therapy or rehabilitation center where you have received medical treatment (in-patient, out-patient, urgent care or emergency room) from the time seven (7) years before the surgery at which you claim you were injured by a Bair Hugger system to the present, state the following information:

Name	Address and Telephone Number	Admission Date(s)	Reason for Admission
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

5. List all of the medications (prescription and over the counter) you currently take.

Medication	Dose/ Frequency of Use	Physician Ordering	Purpose
Tresiba	25units/ 2X Daily	Kane J. Michael, MD	Diabetes
Metformin	500mg/ 2X Daily	Kane J. Michael, MD	Diabetes
Clopidogrel	75mg/ 1X Daily	Kane J. Michael, MD	Stroke Prevention
(See Addendum)			

6. For each prescription medication you have taken at least once a month over the course of four months or more at any time during the last seven (7) years prior to the surgery, other than the ones above, identify the following information:

Name of Prescription Medication	Who Prescribed the Medication	Understanding of Reason for Taking	Dates/years taken
N/A			

7. Identify the following for each pharmacy, drugstore, or other facility or supplier (including, but not limited to, mail order pharmacies) that has dispensed medication to you in the past five (5) years:

Name of Pharmacy	Address and Telephone Number of Pharmacy	Approx. Dates/Years You Used Pharmacy
CenterWell	Mail Order	01/2024 - Present
Kroger Pharmacy	6011 Groveport Rd, Groveport, OH 43125 (614) 830-2015	2018 - 12/2023

8. Identify all dental procedures you had beginning 6 months prior to and continuing through 6 months after the surgery during which you claim you were injured by the Bair Hugger system. For each procedure, provide the following information:

Dentist or Healthcare Provider's Name	Address	Date of Procedure	Type of Procedure
Mount Carmel Grove City (cannot recall dentist)	5300 N Meadows Dr. Grove City, OH 43123	08/2020	Extraction

9. Have you ever used tobacco in any form from the time five (5) years before the surgery at which you claim you were injured by the Bair Hugger system to present?

☒ Yes ☐ No

If "yes," check the answer and state the following:

Type(s) of tobacco used: Cigar, Cigarettes

Date on which you began using tobacco: 2022

Date on which you ceased using tobacco (if current user, state N/A): N/A

Amount of tobacco used: 2-3 per day for 3 years.

Other description of tobacco use: N/A

10. For the time period starting one (1) year before the surgery at which you claim you were injured by the Bair Hugger system to the present, have you been treated as an in-patient or out-patient for drug or alcohol abuse or addiction?

____ Yes ☒ No

If "yes," please provide the name of the facility and approximate dates of treatment
N/A

V. INSURANCE AND OTHER CLAIM INFORMATION

1. Identify any person, insurance company (including any Medicare Advantage Organization), or other entity, including Medicare or Medicaid, that provided medical coverage to you (either directly or through a group, including any employer) or paid medical bills on your behalf at any time, beginning five (5) years before your alleged injuries through the present.

Name of Entity	Policy Number	Name of Policy Holder or Insured (if not you)	Approx. Dates of Coverage
Humana (Medicare)	H71440125	Self	2022 - Present
Unknown	Unknown	Self	2013 - 2022

3. Have you ever filed a worker's compensation claim in the last ten (10) years?

____ Yes ☒ No

If "yes," please state:

The approximate year of the claim: N/A

Your employer: N/A

Nature of disability: N/A

4. Have you ever been out of work for more than thirty (30) days in any one or more of the last ten (10) years, for any reasons related to your health excluding maternity leave?

☒ Yes ____ No

If "yes," please state:

The approximate date(s) you were out of work: 11/2019 - 04/2020

The reason(s) you were out of work: Left Hip Complications

5. Have you ever filed social security disability claims (SSI or SSD) or filed a disability claim with a private insurer?

☒ Yes ☐ No

If "yes," please state:

Approximate year of the claim: 2022

Nature of disability: Left Hip Complications

Was the claim denied? ☐ Yes ☒ No

6. Have you ever filed a lawsuit or made a claim, other than the present lawsuit, relating to any bodily injury in the last ten (10) years?

☐ Yes ☒ No

If "yes," please state:

Approximate date the lawsuit or claim was filed or made: N/A

Court/State where the lawsuit was filed: N/A

Name of the Defendant, if known: N/A

Brief description of the claims asserted: N/A

7. Have you ever filed for bankruptcy subsequent to the date of the surgery in which you claim you were injured by the Bair Hugger system?

☐ Yes ☒ No

If "yes," state when and in what court, and how the case was resolved. N/A

VI. CURRENT CLAIM INFORMATION

1. Do you allege that you suffered physical and/or bodily injury related to use of a Bair Hugger system?

 X Yes No

If “yes”: describe each bodily injury:

Following my surgery where Bair Hugger was used, I suffered a postoperative infection requiring intervention, management and 3 surgeries. See timeline of care on page 20 and medical records provided for additional information.

State the approximate date on which you first became aware of the injury(ies) (regardless of whether you associated the injury with the use of a Bair Hugger system): 11/2019

If you are currently experiencing any symptoms related to an alleged injury that you attribute to use of a Bair Hugger system, describe your symptoms and any treatment you are currently receiving: [REDACTED]

[REDACTED].

Describe any activities that you can no longer perform, or cannot perform as well, since the time you allege you were injured: [REDACTED]

[REDACTED]

[REDACTED]

Describe any other physical harm or consequences you suffered as a result: I have pain in my left hip quite a bit. It is hard for me to sit in a car for a long period of time. I cannot lift a lot of stuff anymore. I have trouble sitting and standing for a long time.

2. Do you allege that use of a Bair Hugger system worsened or aggravated a previously existing injury or condition?

 Yes X No NOT TO MY KNOWLEDGE

If “yes,” describe the previously existing injury or condition, the approximate date of onset of the previously existing injury or condition, and any treatment for and resolution of the injury or condition:

N/A

3. Do you claim damages related to emotional distress or psychological injuries as a result of use of a Bair Hugger system?

☒ Yes ☐ No

If "yes," describe the emotional distress or psychological injuries and the approximate date of onset: The surgeries since 10/18/2019 has decreased my quality of life. My

biggest thing was that I couldn't work anymore, which put a financial burden on me. I

can't go hunting anymore, and I used to walk the riverbanks fishing, but I can't do either anymore.

4. If you are claiming damages related to emotional distress, provide the following information for any psychiatrist, psychologist, or any other mental healthcare professional who has ever treated you, or who you are currently seeing, for any alleged emotional distress or psychological injuries described in the previous question:

Doctor or Healthcare Provider's Name	Specialty	Address	Reason for Visit	Approx. Dates/Years of Visits
Kane J. Michael, MD	Family Medicine	1800 Zollinger Rd, Columbus, OH 43221	Primary Care	01/2025 - Present

5. Have you read or seen any written, televised, or internet-based advertising or labeling material related to a Bair Hugger system other than in consultation with your attorney?

☐ Yes ☒ No

If "yes," state which written, televised, or internet-based advertising or labeling materials you read or saw and when you reviewed those materials: N/A

6. In connection with the surgery at which you claim you were injured, were you given any oral or written information or warnings concerning the Bair Hugger system?

☐ Yes ☒ No

If "yes," state the following:

When these were given: N/A

A description of the information or warnings: N/A

Identify each person or entity from whom you recall receiving the information or warnings listed above:

N/A

If you recall, list any questions you asked, and the answers they gave, regarding the information or warnings listed above:

N/A

7. Have you or has anyone acting on your behalf (other than your attorney) had any communications with any Arizant or 3M representative regarding your surgery with and/or claim of injuries from use of a Bair Hugger system?

 Yes X No

If "yes," provide the approximate date(s), type (email, phone, letter, etc.), persons involved, if known, and general substance of the communication:

N/A

8. Did any representative of Arizant or 3M ever tell you that you got a warranty related to the Bair Hugger™ Patient Warming System or otherwise represent to you the expected performance of the Bair Hugger system ?

 Yes X No

If "yes," state the following: provide the approximate date(s), type of communication (email, phone, letter, etc.), persons involved, if known, and general substance of the representation.

9. Please describe any communications, correspondence, or interactions between You and any representative of Augustine Temperature Management, including but not limited to Dr. Scott Augustine. NONE

VII. ECONOMIC DAMAGES

1. Are you making a claim for loss of past wages or income?

☒ Yes ☐ No

If "yes," state the following:

Approximate time you lost from work: 11/2019 - 04/2020Approximate income you claim you lost: \$25,000

State your approximate total earned income (including any salary, bonus, and benefits) for each year, beginning three years prior to the injury you allege is related to the use of a Bair Hugger system through the present:

Year	Annual gross income
2016	\$50,000
2017	\$50,000
2018	\$50,000
2019	\$45,000
2020	\$30,000
2021	\$30,000
2022	\$30,000
2023	\$30,000
2024	\$30,000

2. Are you making a claim for loss of future wages, income, or earning capacity?

☒ Yes ☐ No

If "yes," state the following:

Approximate amount of lost future wages or income you are claiming: \$ 140,000Basis for calculation of lost future wages or income: 7 Years multiplied by 20,00050,000 (avg 2016 - 2018) - 30,000 (avg 2020 - 2024) = 20,000 multiplied by 7 = 140,000

3. Have you paid out-of-pocket medical expenses that are related to any condition that you allege was caused by a defect in a Bair Hugger system?

☒ Yes ☐ No

If “yes,” state the approximate total amount of out-of-pocket medical expenses incurred:

\$ 1,000

4. For any expenses claimed above, have they been reimbursed or reduced by any third party?

____ Yes ☒ No

If “yes,” identify who reimbursed or reduced these expenses: N/A

5. To your knowledge, has your insurer, or any other entity or person (including the government or a governmental agency or program), paid or incurred any medical expenses related to any condition that you allege was caused by the Bair Hugger system?

☒ Yes ____ No

If “yes,” identify the name and approximate dates during which your insurer, or other entity or person, paid or incurred any such medical expenses. _____

Unknown, 2019 & 2020

6. Provide a statement of the nature and approximate amount of any other economic damages you claim in this lawsuit: N/A

VIII. PERSONS WITH KNOWLEDGE

1. Identify each person (other than your healthcare providers or attorneys) who possesses important information about the facts of your lawsuit, including your injuries and current medical conditions, to the extent not already listed:

Name	Address	Relationship to You	Subject Matter of Knowledge
N/A			

2. Has anyone (other than your healthcare providers or attorneys) provided you with a verbal or written statement about the facts or circumstances relating to this lawsuit, including the use of patient warming systems or the conduct or representations of Defendants?

____ Yes X No

If "yes," please identify the person, state when they gave you this statement and summarize its contents: N/A

IX. LOSS OF CONSORTIUM PLAINTIFFS

1. State the following:

a. Your name: N/A

b. Any other names (*e.g.*, maiden name or alias) you have used or by which you have been known and the dates you used those names: N/A

c. Your Social Security Number: N/A

d. Your address: N/A

e. State how long you have lived at your present address: N/A

2. Sex: Male: N/A Female: N/A

3. Identify each address at which you have resided during the last five (5) years, and list when you started and stopped living at each one:

Address	Dates of Residence
N/A	

4. Are you currently, or have you ever been, married to the primary plaintiff in this action?
N/A Yes N/A No

If “yes,” please state when and where you were married, how long you were married, and when and how the marriage ended (if it did): N/A

5. Do you have any children with the primary plaintiff? N/A Yes N/A No

If “yes,” please identify their names and years of birth: N/A

6. Describe separately and in detail each and every loss of care, services, companionship, counsel, advice, assistance, comfort, consortium, or any similar loss you are claiming:

N/A

TIMELINE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Addendum of Harris, Richard (12/13/1960)

Page 10:

5. List all of the medications (prescription and over the counter) you currently take.

Medication	Dose/ Frequency of Use	Physician Ordering	Purpose
Atorvastatin	20mg/ 1X Daily	Kane J. Michael, MD	High Cholesterol
Hydrocodone	5/25mg/ 1X Daily, As Needed	Kane J. Michael, MD	Pain
Pregabalin	150mg/ 2X Daily	Kane J. Michael, MD	Pain

X. DOCUMENTATION

1. **Authorizations:** Please sign and attach to this Fact Sheet the authorizations for release of records appended hereto.
2. **Documents within your possession:** if you have any of the following materials in your possession, please attach a copy to this Fact Sheet.
 - A. All diagnostic tests and test results, including original films or video of ultra sounds, MRIs, x-rays, CT scans, etc., taken during the time from ten (10) years before the surgery at which you allege you were injured by use of a 3MTM Bair HuggerTM Patient Warming System to the present.
 - B. Copies of all documents from physicians, healthcare providers, or others related to the surgery at which you claim you were injured, any patient warming system, or your recovery from surgery.
 - C. Any documents that reflect, show or establish the use of a Bair Hugger system during the surgery at which you claim you were injured.
 - D. All documents related to, concerning, or constituting product use instructions, product warnings, package inserts, warranties, guarantees, or other materials provided to you that relate to the Bair Hugger system.
 - E. All non-privileged statements obtained from or given by any person having knowledge of facts relevant to your specific case.
 - F. All documents relating to the surgery at which you claim you were injured, including, but not limited to medical records, medical bills, prescriptions, diaries, notes, rehabilitation instructions, etc., whether made by you or any other person or entity.
 - G. All documents regarding the health risks or hazards associated with or possibly arising from surgery, which you received or generated in connection with or at any time before the surgery at which you claim you were injured.
 - H. All documents in your possession that you believe were provided to you by any Defendant (unless they first were given to you by your attorney), related to the claims in your case.
 - I. All documents and things in your possession that relate to any Defendant and were in your possession before the surgery at which you claim you were injured, related to the claims in your case.
 - J. If you claim to have suffered a loss of earnings, or lost earnings capacity, your federal tax returns and W-2s for each year, beginning three years prior to the injury you allege is related to the use of a Bair Hugger system through the present.

K. If you claim any loss from medical expenses, copies of all bills from any physician, hospital, pharmacy, or other healthcare provider.

L. Decedent's death certificate (if applicable).

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that all of the information provided in this Fact Sheet is true and correct to the best of my knowledge.

Richard Harris

Print Name



Richard Harris (Mar 28, 2025 15:50 EDT)

Signature

03/28/2025

Date

Print Name

(Loss of Consortium Plaintiff)

Signature

Date

LIMITED AUTHORIZATION TO DISCLOSE HEALTH INFORMATION

(Pursuant to the Health Insurance Portability and Accountability Act "HIPAA" of 4/14/03)

TO:

Patient Name: Richard Harris

DOB: 12/13/1960

SSN: 291-54-5954

I, Richard Harris, hereby authorize you to release and furnish to:
Norton Rose Fulbright and/or its designee copies of the following information:

- * All medical records, including inpatient, outpatient, and emergency room treatment, all clinical charts, reports, documents, correspondence, test results, statements, questionnaires/histories, office and doctors' handwritten notes, and records received by other physicians, dated from _____ (seven years prior to the date of the subject surgery) to the present.
- * All autopsy, laboratory, histology, cytology, pathology, radiology, CT Scan, MRI, echocardiogram and cardiac catheterization reports, dated from _____ (seven years prior to the date of the subject surgery) to the present.
- * All radiology films, mammograms, myelograms, CT scans, photographs, bone scans, pathology/cytology/histology/autopsy/immunohistochemistry specimens, cardiac catheterization videos/CDs/films/reels, and echocardiogram videos, dated from _____ (seven years prior to the date of the subject surgery) to the present.
- * All pharmacy/prescription records, including NDC numbers and drug information handouts/monographs, dated from _____ (seven years prior to the date of the subject surgery) to the present.
- * All billing records including all statements, itemized bills, and insurance records, dated from _____ (seven years prior to the date of the subject surgery) to the present.

1. To my medical provider: **this authorization is being forwarded by, or on behalf of, attorneys for the defendant for the purpose of litigation. You are not authorized to discuss any aspect of the above-named person's medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on his or her medical or physical condition, unless you receive an additional authorization permitting such discussion. Subject to all applicable legal objections, this restriction does not apply to discussing my medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on my medical or physical condition at a deposition or trial.**

2. I understand that the information in my health record may include information relating to information about behavioral or mental health services and treatment for alcohol and drug abuse.
3. I understand that I have the right to revoke this authorization at any time. I understand that if I revoke this authorization, I must do so in writing and present my written revocation to the health information management department. I understand the revocation will not apply to information that has already been released in response to this authorization. I understand the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy. Unless otherwise revoked, this authorization will expire in one year.
4. I understand that authorizing the disclosure of this health information is voluntary. I can refuse to sign this authorization. I need not sign this form in order to assure treatment. I understand I may inspect or copy the information to be used or disclosed as provided in C.F.R. 164.524. I understand that any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules. If I have questions about disclosure of my health information, I can contact the releaser indicate above.
5. A notarized signature is not required. C.F.R. 164.508. A copy of this authorization may be used in place of an original.

Print Name: Richard Harris (plaintiff/representative)

Signature: 
Richard Harris (Mar 28, 2025 15:50 EDT) Date: 03/28/2025